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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,212	04/25/2006	Holger Leicht	10191/4238	3343
26646 7590 12/03/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER SWARTHOUT, BRENT				
ART UNIT 2612		PAPER NUMBER		
MAIL DATE 12/03/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/577,212

**Applicant(s)**

LEICHT, HOLGER

**Examiner**

Brent A. Swarthout

**Art Unit**

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-12 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forbes et al. in view of Yoshinori or Yoshinori, Bender et al. and Hightower, and further in view of Sato et al. and Stafsudd et al.

Forbes discloses a lane assist system for a vehicle comprising a sensor device 102/104 for detecting lanes, device 406 for alerting a driver that vehicle is or may depart from a lane, except for specifically stating that warning involves a vibration in a seat indicating which direction lane deviation is occurring or that automatic steering is used. It is noted that elements 408 and 410 do teach desirability of indicating to which side lane deviation is occurring.

Bender teaches desirability in a lane deviation warning system of using either visual or seat vibrating means to alert a driver to lane deviation (col. 6, lines 17-19).

Hightower further teaches desirability in a vehicle of vibrating either side of a seat to indicate direction of deviation of a vehicle from a desired path (abstract).

Furthermore, Yoshinori teaches desirability in a vehicle warning system of providing vibration alerts at portions of a seat corresponding to direction of a threat approaching from behind when a vehicle is changing lanes (abstract).

Sato teaches desirability in a vehicle alarm system of providing warning when a vehicle is rapidly approaching from behind (col. 16, lines 3-5).

Stafsudd teaches desirability of utilizing automatic steering to correct course of vehicle when lane deviation is detected (paragraph 6).

It would have been obvious to utilize left and right seat vibration means to indicate which direction a vehicle was deviating a lane at with an approaching vehicle and to use automatic steering correction, in a system as disclosed by Forbes, since Bender and Hightower teach desirability of using , vibrations to indicate course deviation direction, Stafsudd teaches desirability of automatically steering a vehicle responsive to lane deviation and Yoshinori teaches direction of lane change with approaching vehicle, which would have permitted notification even in noisy or bright environments where light and sound alerts would have been distracting or hard to detect. Choosing to indicate rapidly approaching vehicles as suggested by Sato would have been further obvious in order to avoid nuisance alerts from slowly approaching vehicles that did not present a hazard.

Regarding claim 12, Bender teaches using any combination of sound or light for an alarm (col. 6, lines 16-19).

2. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forbes et al. in view of Yoshinori or Yoshinori, Bender et al. and Hightower, and further in view of Andersen et al.

Forbes, Yoshinori, Bender and Hightower disclose a vehicle alerting system for providing vibration and audio alerts to a driver on a lane departing condition, except for specifically stating that a second visual alert is given if a vibration alert is ignored.

Andersen teaches desirability of providing a vibrational alert to a user of a certain condition and for providing a secondary audible and visual alert if the vibrational alert is not heeded (col. 5, lines 57-67).

It would have been obvious to provide a secondary alert as suggested by Andersen in conjunction with the vibration alert system as disclosed by Forbes, Yoshinori, Bender and Hightower, in order that a user could have still been alerted to a hazardous condition even if a preliminary warning was not detected.

Regarding claim 18, Andersen discloses desirability of using an acoustic signal or vibration signal as the first alarm indication (col. 5, lines 23-30).

3. Regarding applicant's remarks filed with the response on 9-12-08, on page 6 it is stated that references do not sense roadway edge, automatically steer vehicle or provide a visual signal if vibration alert is ignored. However, Forbes teaches sensing of lane edge which would have been an equivalent of a roadway edge, since on narrow roads the lane edge and roadway edge are in very close proximity, Stafsudd teaches use of automatic steering, and Andersen teaches use of visual signal when vibration alert is ignored.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A. Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-Th from 6:00 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Lee, can be reached on 571-272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Brent A Swarthout/  
Primary Examiner, Art Unit 2612

Brent A Swarthout  
Primary Examiner  
Art Unit 2612